

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. SR-99-1 (TF-98-113)
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**ORDER GRANTING REQUEST FOR CONFIDENTIALITY, REQUIRING
NOTIFICATION, AND ACCEPTING COMPLIANCE**

(Issued April 13, 1999)

On January 11, 1999, MidAmerican Services filed with the Utilities Board (Board) supplier registration information required under the terms of MidAmerican Energy Company's (MidAmerican Energy) tariff to participate in its Extended Market Access Service (EMAS) pilot program. On March 22, 1999, MidAmerican Services filed additional information, including services and pricing plans initially offered, billing formats, marketing literature and brochures, and evidence that MidAmerican Services is capable of providing service in accordance with the supplier requirements contained in MidAmerican Energy's tariff.

MidAmerican Services requested that the information filed on March 22, 1999, be held confidential. In particular, MidAmerican Services requested the document labeled "Services and Pricing Plans" be held confidential. MidAmerican Services requested the other information, which consists of billing formats and marketing literature and brochures, be held confidential until June 7, 1999. The material for which confidentiality was requested was sealed in a separate envelope and marked confidential. MidAmerican supported its request with an affidavit by a corporate officer.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an objection to the request on March 25, 1999. MidAmerican Services filed a reply on March 30, 1999.

MidAmerican Services states that some of the information contained in its "Services and Pricing Plans" will not be released to the public. MidAmerican Services notes pricing information that will be released to the public is contained in its marketing literature and brochures. MidAmerican Services requests confidentiality of these materials until June 7, 1999, because it believes premature disclosure would give other EMAS pilot suppliers a competitive advantage by allowing them to engage in "target marketing" based on the information contained in the brochures. MidAmerican Services argues that in a competitive market suppliers will not have advance access to such information.

MidAmerican Services initially requested the information be held confidential as a trade secret pursuant to IOWA CODE § 22.7(3). Consumer Advocate argued MidAmerican Services did not establish the information is a trade secret and that the free flow of information is essential in a competitive market.

MidAmerican Services amended its request to also claim the information is a report to a governmental agency which, if released, would give advantage to competitors and serve no public purpose and, therefore, should be held confidential pursuant to section 22.7(6). MidAmerican Services states disclosure of the confidential price information and premature disclosure of the other information could benefit other potential suppliers. MidAmerican Services noted the pilot is to gain information on a competitive electric environment, and such information would not be public in a competitive environment.

The "Services and Pricing Plans" information in question qualifies as a report to a government agency. Based on the information supplied by MidAmerican Services, release of such information serves no public purpose. The supplier registration requirements of the pilot are not intended to place an undue burden on suppliers or require the disclosure of sensitive price information. The pilot is intended to simulate a competitive market and the Board does not want to require unneeded public disclosure of information that would not be available in a competitive market. Therefore, the Board will hold the information confidential pursuant to IOWA CODE § 22.7(6).

The Board notes the filed information may also be confidential as a trade secret pursuant to IOWA CODE § 22.7(3) and IOWA CODE § 550.2(4). However, because the Board finds the information should be held confidential under section 22.7(6), the Board does not reach the question of whether the information is a trade secret recognized and protected as such by law.

The remaining information, which consists of billing formats, marketing literature, and brochures, could advantage competitors if disclosed prematurely. However, the Board will not hold this material confidential after its public release date. Therefore, MidAmerican Services will be required to inform the Board of the public release dates for each piece of information as soon as those dates are known. The Board anticipates, for example, that the marketing literature and brochures may be made public prior to the billing format information.

The Board has reviewed the supplier registration information filed by MidAmerican Services to meet the requirements listed on Sheet R-2 of MidAmerican Energy's EMAS tariff. MidAmerican Services has complied with those requirements.

IT IS THEREFORE ORDERED:

1. The request for confidentiality filed by MidAmerican Services on March 22, 1999, is granted to the extent discussed in this order.
2. The filed information shall be held confidential by the Board to the extent discussed in this order subject to the provisions of IOWA ADMIN. CODE 199-1.9(8)"b"(3) (1999).
3. MidAmerican Services shall promptly notify the Board of the public release of any marketing literature, marketing brochures, or billing formats filed on March 22, 1999.
4. MidAmerican Services complies with the supplier registration requirements contained in Sheet R-2 of MidAmerican Energy Company's EMAS tariff.

UTILITIES BOARD

/s/ Emmitt J. George, Jr.

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Paula S. Dierenfeld

Dated at Des Moines, Iowa, this 13th day of April, 1999.